

**FILED**

**JAN 12 2015**

**BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

IN THE MATTER OF THE REQUEST FOR AGENCY  
ACTION OF WHITING OIL AND GAS CORPORATION  
FOR AN ORDER AUTHORIZING THE VENTING OR  
FLARING OF GAS FROM THE MORONI 11M-1107  
WELL LOCATED IN SECTION 11, TOWNSHIP 15  
SOUTH, RANGE 3 EAST, S.L.M., SANPETE  
COUNTY, UTAH

**RESPONSE TO REQUEST FOR  
AGENCY ACTION**

Docket No. 2015-001

Cause No. 176-05

COMES NOW, International Petroleum Limited Liability Company ("Respondent"), acting by and through its attorney, Anthony T. Hunter, pursuant to the Notice of Hearing dated December 23, 2014 in the captioned matter, hereby responds to that Request for Agency Action filed by Whiting Oil and Gas Corporation ("Whiting" or "Petitioner") on December 11, 2014 (the "RAA") with the Board of Oil, Gas and Mining (the "Board"), requesting that the Board approve venting or flaring of gas from the captioned well in unspecified amounts for an undefined period. In response to the RAA, the Respondent respectfully states and represents:

1. Respondent is a Utah limited liability company with its principal place of business in Salt Lake City, Utah and is duly qualified to conduct business in the State of Utah.
2. Respondent owns leasehold interests throughout the captioned section, as noted on Exhibit "B." The leasehold interest in the north half of the Section (marked as parcel "1211") was acquired on February 16, 2005 and recorded at Book 503, Page 1240 on April 5, 2005 (as amended at Book 522, Page 180 on January 6, 2006) in the office of the Register of Deeds of Sanpete County. The leasehold interests in the south half of the Section date (marked as parcel "3470") were

acquired on September 19, 2014, after many months of negotiations, and recorded at Book 668, Page 537 and Page 548 on September 29, 2014.

3. An application for permit to drill ("APD") for the captioned well was filed on July 14, 2014 and approved by the Division of Oil, Gas and Mining ("DOGM") August 6, 2014.

4. Despite their leasehold ownership in the north half of the Section, Respondent did not receive notice of the APD, as is required by Utah Admin. Code R649-3-2(7).

5. The captioned well was spudded August 27, 2014. That same day, Petitioner mailed an Election Letter to the lessors of parcel 3470. This letter, which Respondent has not seen, required a response on or before October 2, 2014. On September 26, 2014, Petitioner informed Respondent that the newly leased minerals were "subject to" this letter and demanded \$530,032.16 or Respondent would risk having the leasehold forced pooling with statutory penalties. See Exhibit "C."

6. On October 1, 2014, Respondent requested copies of the Election Letter, a proposed Joint Operating Agreement ("JOA"), an Authority For Expenditure ("AFE"), and any other pertinent offers or terms, in order to make an informed decision regarding the leasehold. Respondent replied on October 6, 2014 with an AFE and a demand that either the leasehold be assigned to Petitioner or the AFE executed and a check for \$132,507.97 be mailed to Petitioner.<sup>1</sup> A JOA was not included.

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<sup>1</sup> The balance of the \$530,032.16 originally demanded, being \$397,524.19, was demanded of Respondent's affiliate, Bro Energy, LLC, who had been subsequently assigned an undivided three-quarters of the ownership from Respondent.

7. On November 5, 2014, Respondent was assured that upon notice that Respondent's "check for the applicable cash call clears our bank" that pertinent well data would be made available to Respondent.

8. On November 6, 2014, Respondent sent the required check and Election Letter response, indicated that it wished to participate in the captioned well. This check was deposited by Petitioner and cleared Respondent's bank on November 7, 2014.

9. On November 11, 2014, after Respondent's check cleared, Petitioner sent a JOA for signature. Despite Petitioner's earlier assurance, release of well data was now conditioned on Respondent's execution of the JOA in addition to the provision of funds. The area included in the JOA was limited to the S/2 of Section 11, Township 15 South, Range 3 East, SLM. On November 21, 2014, Respondent requested a meeting to discuss revisions to the proposed JOA. On November 24, 2014, Petitioner responded that it was "highly unlikely" that any changes to the JOA would be acceptable, because "96% of the DSU [*sic.*, Drilling and Spacing Unit]" had agreed to the proposed JOA. See Exhibit "D." On November 25, 2014, each and every amendment proposed by the Respondent was rejected. There has been no further communication on this issue.

10. Contrary to Petitioner's assertion in "Exhibit D," there are no drilling units established anywhere in the captioned Section. The captioned well was drilled under the "temporary six hundred and forty (640) acre spacing unit" established by Utah Admin. Rule R 649-3-2(6). Despite its name, this "temporary spacing unit" is not "a drilling unit as provided for in U.C.A. 40-6-6, Drilling Units, and does not provide a basis for pooling the interest therein as does a drilling unit." See Utah Admin. Rule R649-1-1.

11. Despite the captioned Section being subject to a “temporary spacing unit,” the governing regulations do not provide a determination of the correlative rights of the owners within its boundaries. The only right conferred by the regulations is the right to receive notice of proposed horizontal drilling operations within the Section. However, the right to receive notice necessarily implies the *potential* existence of a section-wide correlative right to participate in a proposed horizontal well.

12. Correlative rights are “the opportunity of each owner in a pool [a/k/a “reservoir”] to produce his just and equitable share of the oil and gas in the pool [a/k/a “reservoir”] without waste.” Utah Code Ann. §40-6-2(2) and (19). Waste is, among other things, “excessive ... dissipation of oil or gas or reservoir energy.” Utah Code Ann. §40-6-2(27)(a). At this time, the pool or reservoir being drained by the captioned well is undefined.

13. Petitioner has requested authority to flare or vent “for more than 30 days or at a rate that exceeds a total of 50 MMCF” (RAA, ¶ 7 (a)). This is an unspecified amount of gas for an undefined period, from an unspaced governmental 640-acre Section. When the Board has not defined where the reservoir is located, or who has a legally enforceable right to an opportunity to produce from it, it lacks crucial facts it needs to determine how much flaring or venting (*i.e.*, “dissipation”) is excessive.

14. Historically, the Board has erred on the side of caution when defining correlative rights in “rank wildcat” fields with the potential for high production of natural gas, generally starting with one well per governmental 640-acre Section. *See, e.g.*, the Order in Cause No. 131-14. Only after sufficient additional data and experience were gathered did smaller units or additional wells per

unit gain approval. *See, e.g.*, the Order in Cause No. 139-84. Given that those orders were issued in the days of vertical drilling, it follows that similar, if not greater, caution should be exercised in the context of horizontal drilling.

15. As a participant in the captioned well, Respondent believes that a formal determination of the correlative rights of the owners in the entire "temporary spacing unit," as opposed to just the south half of the Section, prior to determining the allowable amount of vented or flared gas is necessary for the orderly and just development of the captioned lands without waste. Respondents have concurrently filed a Request for Agency Action to ask the Board to do so.

**WHEREFORE**, Respondent respectfully requests that the Board:

1. Continue this matter until the correlative rights in the "temporary spacing unit" under the captioned Section have been determined; or, in the alternative
2. Merge this matter into the concurrently filed spacing request; and
3. Make such findings and conclusions in connection with this Request as it deems necessary; and
4. Provide for such other and further relief as may be just and equitable under the circumstances.

Respectfully submitted this 12th day of January, 2015.



By: \_\_\_\_\_

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